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UNITED STATE DISTRICT COURT

Northern District of California

CYNTHIA GUTIERREZ, JOSE HUERTA,
SMH, RH and AH,

Case No.

COMPLAINT

Plaintiffs,

vs.

SANTA ROSA MEMORIAL HOSPITAL, ST.
JOSEPH HEALTH and DOES 1-50, inclusive,

Defendants.

STATEMENT OF THE CASE

1. CYNTHIA GUTIERREZ was 33 years old when she presented to Defendant SANTA ROSA MEMORIAL HOSPITAL at approximately 3:00 a.m. on February 25, 2015.

2. CYNTHIA GUTIERREZ was diabetic. She had end stage renal disease. She weighed 134 pounds and was 5' 2" tall.

3. She worked at a Panera restaurant in Rohnert Park, California.

4. Her husband is JOSE HUERTA. They have three minor children, ages 15, 11 and 8.

5. Because of her medical conditions, CYNTHIA was frequently a patient at SANTA ROSA MEMORIAL HOSPITAL'S emergency room.

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6. On this particular occasion, various laboratory and diagnostic tests were ordered. Many of the test results were remarkable for the presence of life threatening disease.

7. Inexplicably, these “red flags” were ignored.

8. CYNTHIA was discharged from the emergency room at approximately 7:00 a.m.

9. CYNTHIA was sitting in the waiting room when she collapsed.

10. A Code Blue was called and she was resuscitated.

11. She was transferred to the ICU.

12. She has remained in a coma.

13. No explanation has been provided to the family as to how this occurred.

14. CYNTHIA has remained at SANTA ROSA MEMORIAL HOSPITAL, despite attempts to transfer her elsewhere.

IDENTIFICATION OF PARTIES

A. Plaintiffs.

15. CYNTHIA GUTIERREZ, 200 Craubrook Way #203, Santa Rosa, CA 95407.

16. JOSE HUERTA, 200 Craubrook Way #203, Santa Rosa, CA 95407.

17. SMH, 200 Craubrook Way #203, Santa Rosa, CA 95407.

18. RH, 200 Craubrook Way #203, Santa Rosa, CA 95407.

19. AH, 200 Craubrook Way #203, Santa Rosa, CA 95407.

B. Defendants.

20. SANTA ROSA MEMORIAL HOSPITAL (SRMH), 1165 Montgomery Drive, Santa Rosa, California 95405.

21. ST. JOSEPH HEALTH, 3345 Michelson Drive, Ste 100, Irvine, CA 92612.

22. Does 1-50.

JURISDICTION AND VENUE

23. This case belongs in federal court under federal question jurisdiction because it is about federal law(s) or right(s) of EMTALA.

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24. Venue is appropriate in this Court because all Defendants live in California and at least one of the Defendants lives in this district and because a substantial part of the events being sued about happened in this district.

25. Plaintiffs hereby demand a jury trial in this action.

INTRADISTRICT ASSIGNMENT

26. This lawsuit should be assigned to San Francisco/Oakland Division of this Court because this is the district where the event occurred.

STATEMENT OF FACTS AND CLAIMS

27. CYNTHIA GUTIERREZ was 33 years old when she presented to Defendant SRMH at approximately 3:00 a.m. on February 25, 2015.

28. CYNTHIA GUTIERREZ was diabetic. She had end stage renal disease. She weighed 134 pounds and was 5' 2" tall.

29. She worked at a Panera restaurant in Rohnert Park, California.

30. Her husband is JOSE HUERTA.

31. Because of her medical conditions, CYNTHIA was frequently a patient at SRMH'S emergency room.

32. On this particular occasion, various laboratory and diagnostic tests were ordered. Many of the test results were remarkable for the presence of life threatening disease.

33. Inexplicably, these "red flags" were ignored.

34. CYNTHIA was discharged from the emergency room at approximately 7:00 a.m.

35. CYNTHIA was sitting in the waiting room when she collapsed.

36. A Code Blue was called and she was resuscitated.

37. She was transferred to the ICU.

38. She has remained in a coma.

39. No explanation has been provided to the family as to how this occurred.

40. CYNTHIA has remained at SRMH, despite attempts to transfer her elsewhere.

41. Defendants performed a cursory and inadequate screening.

42. Defendants failed to stabilize CYNTHIA GUTIERREZ.

1 43. Defendants ignored even their own test results showing life-threatening, unstable
2 conditions. They nonetheless intentionally and recklessly chose to simply discharge CYNTHIA
3 GUTIERREZ.

4 44. As such, Defendants failed to comply with EMTALA requirements to reasonably
5 screen and stabilize.

6 45. Defendants intentionally and recklessly and negligently refused and failed to
7 follow federal law EMTALA and state law and their own policies and procedures all of which
8 mandated medical screening and stabilization CYNTHIA'S emergency medical conditions when
9 she presented to their ER.

10 46. Defendants' pattern and practice was to deny and avoid care for indigent and
11 uninsured and underinsured and those with substance and/or mental health issues or apparent
12 questionable immigration status.

13 47. Despite claiming to be a charitable and caring organization by history Defendants
14 have instead placed corporate profits and revenues ahead of patient care and safety due to
15 financial pressures they have received from competing facilities including but not limited to
16 Sutter Heath and Kaiser and for other unknown reasons.

17 48. Defendants have previously and repeatedly "dumped" other patients in violation
18 of EMTALA including but not limited to Michael Torres, whom they discharged to die in their
19 parking lot due to severe pneumonia of days duration which went undiagnosed and untreated and
20 for which the hospital was cited by federal authorities. They also "dumped" and refused even the
21 most cursory exam to another recent victim who wishes to not be identified in the Complaint.
22 They were also cited by Federal authorities for this second previous case.

23 49. Both such cases were prosecuted by the undersigned.

24 50. Defendants have also effectively discharged other patients by making them wait
25 inordinate times and discouraging them from coming to the ER and by pretending to perform the
26 requisite screening and stabilization procedures but instead minimizing all contacts and care and

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1 only seeking to try to avoid liability for violating EMTALA and other laws and the hospital's
2 own policies and procedures.

3 51. SRMH has been repeatedly been cited for intentional understaffing by the CDPH
4 [California Department of Public Health.]

5 52. SRMH has repeatedly discharged patients prematurely in order to maximize their
6 income and profits regardless of the risks imposed thereby on the patients.

7 **FIRST CAUSE OF ACTION**

8 **(EMTALA 42 U.S.C. 1395dd)**

9 53. Plaintiffs reincorporate paragraphs 1 through 53, above.

10 54. Defendants dumped and failed to screen or stabilize CYNTHIA GUTIERREZ in
11 violation of this law.

12 **SECOND CAUSE OF ACTION**

13 **(WELFARE & INSTITUTIONS CODE 15657 including 15657 Enhanced Remedies)**

14 55. Plaintiffs reincorporate paragraphs 1 through 54 above.

15 56. CYNTHIA GUTIERREZ was a dependent adult per Welfare and Institutions
16 Section 15600, et seq. Defendants intentionally and recklessly neglected CYNTHIA causing her
17 severe suffering and emotional distress.

18 **THIRD CAUSE OF ACTION**

19 **(Negligence)**

20 57. Plaintiffs reincorporate paragraphs 1 through 56 above.

21 58. General negligence including unreasonable care in violation of the above stated
22 Federal and California statutory law and as well as in violation of Defendants' own policies and
23 procedures as well as breach of Defendants' general and fiduciary duties to provide standard and
24 reasonable care. Plaintiffs and each of them also claim damages as direct victims and as
25 bystanders due to negligent infliction of emotional distress.

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DEMAND FOR RELIEF

Wherefore, Plaintiffs pray for relief as follows:

1. For damages, economic and non-economic, to each of Plaintiff according to proof;
2. For enhanced remedies pursuant to California State Welfare & Institutions Code §15657 including attorney fees;
3. For exemplary/punitive damages including but not limited to as provided for by California Civil Code §3294 based on Welfare & Institutions Code §15600, et seq. and EMTALA;
4. For EMTALA related remedies including, but not limited to, attorney fees and costs and compensation to CYNTHIA GUTIERREZ and JOSE HUERTA and their family members and loved ones; and
5. Prejudgement interest in the amount of 10% per year or at the maximum level recoverable by law.

DATED: May 16, 2016

LAW OFFICES OF DOUGLAS C. FLADSETH

/s/

DOUGLAS C. FLADSETH
Attorney for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial in this action.

Dated: May 16, 2016

LAW OFFICES OF DOUGLAS C. FLADSETH

/s/

DOUGLAS C. FLADSETH
Attorney for Plaintiffs